

Danville-Pittsylvania Regional Industrial Facility Authority

**CITY OF DANVILLE, VIRGINIA
COUNTY OF PITTSYLVANIA, VIRGINIA**

AGENDA

MONDAY, SEPTEMBER 13, 2010

12:00 NOON

**DAN RIVER BUSINESS DEVELOPMENT CENTER CONFERENCE ROOM
300 RINGGOLD INDUSTRIAL PARKWAY**

COUNTY OF PITTSYLVANIA MEMBERS

**COY E. HARVILLE, VICE CHAIRMAN
HENRY A. "HANK" DAVIS, JR.
FRED M. INGRAM, ALTERNATE**

CITY OF DANVILLE MEMBERS

**SHERMAN M. SAUNDERS, CHAIRMAN
T. DAVID LUTHER
FRED O. SHANKS, III, ALTERNATE**

STAFF

**JOSEPH C. KING, CITY MANAGER, DANVILLE
WILLIAM D. SLEEPER, PITTSYLVANIA COUNTY ADMINISTRATOR
CLEMENT & WHEATLEY, ATTORNEY FOR AUTHORITY
ANNETTE Y. CRANE, CLERK TO THE AUTHORITY**

DANVILLE-PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY AUTHORITY

SEPTEMBER 13, 2010

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1. MEETING CALLED TO ORDER

2. ROLL CALL

3. PUBLIC COMMENT PERIOD

CITIZENS WHO DESIRE TO SPEAK ON AN AGENDA ITEM WILL BE HEARD AT THIS TIME. PLEASE NOTE THE PUBLIC COMMENT PERIOD INCLUDES A THREE-MINUTE TIME RESTRICTION FOR COMMENTS.

4. APPOINTMENT OF A SECRETARY AND A TREASURER

5. APPROVAL OF MINUTES (NOVEMBER 17, 2008 AMENDED MEETING MINUTES)

6. APPROVAL OF MINUTES (AUGUST 9, 2010 REGULAR MEETING)

7. CONSIDERATION OF A 240-MONTH GROUND LEASE AND OPTION TO THE INSTITUTE FOR ADVANCED LEARNING AND RESEARCH ("IALR") FOR A PORTION OF TAX PARCEL 78360, UPON WHICH IALR SHALL CAUSE THE CONSTRUCTION OF THE SUSTAINABLE ENERGY TECHNOLOGY CENTER BUILDING

8. CONSIDERATION TO ADOPT RESOLUTION OF SUPPORT FOR THE MEGA INDUSTRIAL SITE ENTERPRISE ZONE

9. FINANCIAL REPORT

10. CLOSED MEETING –

•AS PERMITTED BY SECTION 2.2-3711(A)(7) OF THE CODE OF VIRGINIA, 1950 AS AMENDED, FOR CONSULTATION WITH AND BRIEFING BY LEGAL COUNSEL PERTAINING TO ACTUAL LITIGATION REGARDING *NANCY BARBOUR SMITH, ET AL. V. PITTSYLVANIA COUNTY BOARD OF SUPERVISORS* (CASE No. CL10000088-00), WHERE SUCH CONSULTATION OR BRIEFING IN OPEN MEETING WOULD ADVERSELY AFFECT THE NEGOTIATING OR LITIGATING POSTURE OF THE AUTHORITY

•AS PERMITTED BY SECTIONS 2.2-3711(A)(3) AND 2.2-3711(A)(5) OF THE CODE OF VIRGINIA, 1950 AS AMENDED, FOR DISCUSSION OR CONSIDERATION OF THE DISPOSITION OF AN INTEREST IN THE CANE CREEK CENTRE, WHERE DISCUSSION IN AN OPEN MEETING WOULD ADVERSELY AFFECT THE BARGAINING POSITION OR NEGOTIATING STRATEGY OF THE AUTHORITY AND FOR DISCUSSION CONCERNING A PROSPECTIVE BUSINESS OR INDUSTRY OR THE EXPANSION OF AN EXISTING BUSINESS OR INDUSTRY WHERE NO PREVIOUS ANNOUNCEMENT HAS BEEN MADE OF THE BUSINESS' OR INDUSTRY'S INTEREST IN LOCATING OR EXPANDING ITS FACILITIES IN THE CANE CREEK CENTRE

•AS PERMITTED BY SECTION 2.2-3711(A)(5) OF THE CODE OF VIRGINIA, 1950 AS AMENDED, FOR DISCUSSION CONCERNING A PROSPECTIVE BUSINESS OR INDUSTRY OR THE EXPANSION OF AN EXISTING BUSINESS OR INDUSTRY WHERE NO PREVIOUS ANNOUNCEMENT HAS BEEN MADE OF THE BUSINESS' OR INDUSTRY'S INTEREST IN LOCATING OR EXPANDING ITS FACILITIES ON OR ABOUT REAL PROPERTY OWNED OR LEASED BY IALR

•AS PERMITTED BY SECTION 2.2-3711(A)(40) OF THE CODE OF VIRGINIA, 1950, AS AMENDED, FOR DISCUSSION AND CONSIDERATION OF RECORDS EXCLUDED FROM CHAPTER 37 OF TITLE 2.2 OF THE CODE OF VIRGINIA, 1950, AS AMENDED, PURSUANT TO SECTION 2.2-3705.6(3), WHICH INCLUDE THOSE CERTAIN CONFIDENTIAL PROPRIETARY RECORDS, VOLUNTARILY PROVIDED BY A CERTAIN PRIVATE BUSINESS, PRIMARILY LOCATED IN VIRGINIA, PURSUANT TO A PROMISE OF CONFIDENTIALITY FROM THE AUTHORITY, USED BY THE AUTHORITY FOR BUSINESS AND TRADE DEVELOPMENT IN THE AUTHORITY'S MEGA PARK

- A. MOTION TO CONVENE IN CLOSED MEETING
- B. MOTION TO RECONVENE IN OPEN MEETING
- C. MOTION TO CERTIFY CLOSED MEETING

11. ACTION ON MATTERS CONSIDERED IN CLOSED MEETING

•CONSIDERATION TO ADOPT A RESOLUTION ON ACTION TAKEN IN CLOSED MEETING REGARDING NANCY BARBOUR SMITH, ET AL. V. PITTSYLVANIA COUNTY BOARD OF SUPERVISORS (CASE No. CL10000088-00).

•CONSIDERATION TO ADOPT A RESOLUTION ON ACTION TAKEN IN CLOSED MEETING REGARDING DISCUSSION CONCERNING A PROSPECTIVE BUSINESS OR INDUSTRY OR THE EXPANSION OF AN EXISTING BUSINESS OR INDUSTRY WHERE NO PREVIOUS ANNOUNCEMENT HAS BEEN MADE OF THE BUSINESS' OR INDUSTRY'S INTEREST IN LOCATING OR EXPANDING ITS FACILITIES IN THE CANE CREEK CENTRE

• CONSIDERATION TO ADOPT A RESOLUTION ON ACTION TAKEN IN CLOSED MEETING REGARDING DISCUSSION CONCERNING A PROSPECTIVE BUSINESS OR INDUSTRY OR THE EXPANSION OF AN EXISTING BUSINESS OR INDUSTRY WHERE NO PREVIOUS ANNOUNCEMENT HAS BEEN MADE OF THE BUSINESS' OR INDUSTRY'S INTEREST IN LOCATING OR EXPANDING ITS FACILITIES ON OR ABOUT REAL PROPERTY OWNED OR LEASED BY IALR

- **CONSIDERATION TO ADOPT A RESOLUTION ON ACTION TAKEN IN CLOSED MEETING REGARDING DISCUSSION CONCERNING RECORDS EXCLUDED FROM CHAPTER 37 OF TITLE 2.2 OF THE CODE OF VIRGINIA, 1950, AS AMENDED, PURSUANT TO SECTION 2.2-3705.6(3), WHICH INCLUDE THOSE CERTAIN CONFIDENTIAL PROPRIETARY RECORDS, VOLUNTARILY PROVIDED BY A CERTAIN PRIVATE BUSINESS, PRIMARILY LOCATED IN VIRGINIA, PURSUANT TO A PROMISE OF CONFIDENTIALITY FROM THE AUTHORITY, USED BY THE AUTHORITY FOR BUSINESS AND TRADE DEVELOPMENT IN THE AUTHORITY'S MEGA PARK**

12. COMMUNICATIONS FROM:

**HENRY A. "HANK" DAVIS, JR.
COY E. HARVILLE
FRED M. INGRAM
T. DAVID LUTHER
SHERMAN M. SAUNDERS
FRED O. SHANKS, III
STAFF**

13. ADJOURN

AGENDA
ITEM NUMBER 5

Danville-Pittsylvania Regional Industrial Facility Authority



427 Patton Street, Room 428
Danville, Virginia 24541
(434) 799-5185
(434) 799-5041 – FAX



Sherman M. Saunders, Chairman

Coy E. Harville, Vice Chairman

MEMORANDUM

TO: Danville-Pittsylvania Regional Industrial Facility Authority Board of Directors
FROM: Annette Y. Crane, Clerk to the Authority
DATE: September 7, 2010
RE: Amendments to November 17, 2008 RIFA Minutes

The adopted Minutes of the November 17, 2008 Regional Authority Meeting did not reflect the Board's consideration and adoption of a Resolution authorizing the issuance of \$13,000,000 in Bond Anticipation Notes.

During a review of my handwritten notes taken during that meeting, I discovered that the Resolution had indeed been considered and adopted by the Board. My notes indicate the following:

1. Motion to go into Closed Meeting for consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation as permitted by Subsection (A) (7) of Section 2.2-3711 of the Code of Virginia, 1950, as amended, by Mr. Harville and second by Mr. Snead.
2. Motion to return to open meeting by Mr. Harville and second by Mr. Snead.
3. Motion for Certification Resolution by Mr. Harville and second by Mr. Luther.

These items were reflected in the adopted Minutes.

My notes further indicate that following presentation of the Monthly Financial Report, a Motion to adopt a Resolution authorizing issuance of \$13,000,000 in Bond Anticipation Notes was made by Mr. Harville and was seconded by Mr. Luther. This Resolution was adopted unanimously by the Directors.

This action was inadvertently omitted from the Minutes.

Attached are the amended Minutes of the November 17, 2008 RIFA Board Meeting for your consideration.

I apologize for this omission.

s/Annette Y. Crane

Danville-Pittsylvania Regional Industrial Facility Authority

AMENDED Minutes

November 17, 2008

A Meeting of the Danville Pittsylvania Regional Industrial Facility Authority convened at 12 o'clock Noon on the above date in the Conference Room of the Dan River Business Development Center located at 300 Ringgold Industrial Parkway. Present were City of Danville Members Chairman Sherman Saunders, David Luther, and Alternate Fred Shanks and Pittsylvania County Members Vice-Chairman/Secretary-Treasurer Coy Harville and James Snead. Alternate Tim Barber was absent.

Staff Members attending were: Danville Interim City Manager Lyle Lacy, Pittsylvania County Administrator Dan Sleeper, Assistant County Administrator Otis Hawker, Danville Economic Development Director Jeremy Stratton, Pittsylvania County Planning Director Greg Sides, Pittsylvania County Economic Development Director Carol Motley, Danville Finance Director Barbara Dameron, Pittsylvania County Finance Director Kim Van der Hyde, Danville Senior Accounty Joy Cantrell, Authority Attorney Lee Yancey, and Danville City Clerk/Clerk to the Authority Annette Crane.

Also in attendance were Davenport and Company Consultant Joe Mason and Mark Osborne.

Mr. Saunders called the Meeting to order.

MINUTES

Mr. Luther **moved** approval of the Minutes of the October 13, October 15 and October 24, 2008 Meetings. The Motion was seconded by Mr. Snead and carried unanimously.

ADDITION TO AGENDA

Mr. Harville requested discussion of the sod farm located on the Berry Hill property be added to the Agenda. It was the consensus of Authority Members the item be added as Item 7A.

CONVEY 6.27 ACRES AT ANGLERS PARK WETLAND MITIGATION SITE

Mr. Harville **moved** to accept the conveyance of the 6.27 acre Anglers Park Wetland Mitigation Site, approve the Declaration of Restrictive Covenants for the site, and crediting the City of Danville at a per acre value of \$4,865 for a total credit of \$30,504 for the property. The Motion was seconded by Mr. Luther and carried unanimously.

REPORT ON STATUS OF PROPERTY ACQUISITION

Mrs. Motley advised the Kluttz and Canter properties at Berry Hill had been purchased and closed. Negotiations are still in progress on another property.

Mr. Harville suggested a called meeting be held to be brought up to date on all the properties at the Berry Hill. Mr. Luther agreed.

Danville-Pittsylvania Regional Industrial Facility Authority

AMENDED Minutes

November 17, 2008

Mr. Lacy advised groundbreaking ceremonies would take place for AVRC on Monday, November 24 at 10:00 a.m. It was suggested a meeting following that ceremony be held at the Airport to discuss Berry Hill properties.

CLOSED MEETING

At 12:30 P. M. Mr. Saunders recognized Mr. Harville who moved that the meeting be recessed and that Authority Members immediately convene in Closed Meeting for consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation and/or consultation with legal counsel employed by the Authority regarding specific legal matters requiring legal advice as permitted by Subsection (A) (7) of Section 2.2-3711 of the Code of Virginia, 1950, as amended. The Motion was seconded by Mr. Snead and carried by the following vote:

VOTE: 4-0
AYE: Harville, Luther, Saunders, and Snead (4)
NAY: None (0).

Upon unanimous vote, at 12:45 P.M., the Meeting reconvened in open session and Mr. Luther moved adoption of the following Resolution.

CERTIFICATE OF CLOSED MEETING

WHEREAS, the Authority convened in Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Freedom of Information Act; and

WHEREAS, Section 2.1-344.1 of the Code of Virginia, 1950, as amended, requires a Certification by the Authority that such Closed Meeting was conducted in conformity with Virginia Law;

NOW, THEREFORE, BE IT RESOLVED that the Authority hereby certifies that, to the best of each Member's knowledge, (i) only public business matters lawfully exempted by the open requirements of Virginia Law were discussed in the Closed Meeting to which this Certification Resolution applies, and (ii) only such public business matters as were identified in the Motion convening the Closed Meeting were heard, discussed, or considered by the Authority.

The Motion was seconded by Mr. Snead and carried by the following vote:

VOTE: 4-0
AYE: Harville, Luther, Saunders, and Snead (4)
NAY: None (0).

Danville-Pittsylvania Regional Industrial Facility Authority

AMENDED Minutes

November 17, 2008

FINANCIAL REPORTS

There were no comments from Authority Members relating to the Financial Report that had been included in the Agenda Package and distributed to Members prior to the Meeting.

APPROVE RESOLUTION AUTHORIZING ISSUANCE OF BONDS IN THE AMOUNT OF \$13,000,000

Mr. Sleeper commented bonds in the amount of \$13,450,000 included closing costs, but that \$13,000,000 did not.

Mr. Harville **moved** adoption of a Resolution authorizing the issuance of Bond Anticipation Notes up to an amount of \$13,000,000 (BerryHill Project), Series 2008, and other matters in connection therewith. The Motion was seconded by Mr. Luther and carried by a unanimous vote.

DISCUSSION OF SOD FARM

There was considerable discussion relating to the sod farm leased by Mark Osborne on the former Klutz property at Berry Hill. Mr. Lacy said information relating to the lease would be provided at the next Authority Meeting in order to address and resolve several concerns.

COMMUNICATIONS

Mr. Snead asked about the Haley house that remains at Cane Creek. Mr. Sleeper advised the house had been offered for bids, but no one wanted the property.

Mr. Snead **moved** to offer the Haley house again for bids and that the bid package include removal of the house and all related materials. The Motion was seconded by Mr. Luther and carried unanimously.

The Meeting adjourned at 12:55 P.M.

Chairman

Clerk

AGENDA
ITEM NUMBER 6

Danville-Pittsylvania Regional Industrial Facility Authority

Minutes

August 9, 2010

The Regular Meeting of the Danville Pittsylvania Regional Industrial Facility Authority convened at 12 o'clock Noon on the above date at the Institute for Advanced Learning and Research located at 150 Slayton Avenue. Present were City of Danville Members Chairman Sherman Saunders, David Luther, Alternate Fred Shanks and Pittsylvania County Members Secretary-Treasurer Coy Harville and Hank Davis.

City/County staff members attending were: Danville City Manager Joe King, Danville Deputy City Manager David Parrish, Pittsylvania County Administrator Dan Sleeper, Pittsylvania County Assistant County Administrator Otis Hawker, Pittsylvania County Assistant Administrator for Planning Greg Sides, Danville Finance Director Barbara Dameron, Danville Business Systems Accountant Amy Merricks Chandler, Danville Economic Development Director Jeremy Stratton, Danville Economic Development Project Manager Corrie Teague, Danville Economic Development Consultant Linwood Wright, Pittsylvania County Economic Development Director Ken Bowman, Danville City Attorney Clarke Whitfield, Clement and Wheatley Attorney Michael Guanzon, Clerk to the Authority Annette Crane and Pittsylvania County Deputy Clerk Rebecca Flippen.

Danville City Council Members present were Larry Campbell, Alonzo Jones, and Gary Miller.

Pittsylvania County Board of Supervisors Members present were Tim Barber, Marshall Ecker, William Pritchett and James Snead.

Troutman Sanders Attorney Steve Johnson, Dewberry and Davis associates Brian Bradford and Shawn Harden and Jeanette Goldsmith with McCallum Sweeney was also present.

Citizens in attendance were Carolyn Gibson, Barbara Hudson, Andrew Lester, and Nancy B. Smith.

Mr. Saunders called the Meeting to order.

APPROVAL OF JULY 12, 2010 MINUTES

Upon **Motion** by Mr Harville and second by Mr. Luther, Minutes of the July 12, 2010 meeting were approved by the following vote:

VOTE: 4-0
AYE: Davis, Harville, Luther Saunders (4)
NAY: None (0).

Draft copies of the Minutes were distributed to Authority Members prior to the meeting.

RESOLUTION RATIFYING ACTIONS TAKEN BY VICE CHAIRMAN AND AMENDING THE AMENDED AND RESTATED BYLAWS OF THE AUTHORITY

Mr. Harville **moved** adoption of a Resolution ratifying actions taken by the Vice Chairman and amending the amended and restated Bylaws of the Authority. The Motion was seconded by Mr. Luther

Danville-Pittsylvania Regional Industrial Facility Authority

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August 9, 2010

and carried by the following vote:

VOTE: 4-0
AYE: Davis, Harville, Luther Saunders (4)
NAY: None (0).

ELECTION OF VICE CHAIRMAN

Mr. Davis **moved** the nomination of Coy Harville as Vice Chairman of the Authority. Mr. Luther **moved** to close the nominations. Mr. Harville was elected Vice Chairman by the following vote:

VOTE: 4-0
AYE: Davis, Harville, Luther Saunders (4)
NAY: None (0).

SECOND RESOLUTION RATIFYING PRIOR ACTIONS

Mr. Harville **moved** to ratify all actions previously taken by the Authority and by the members of its Board of Directors. The Motion was seconded by Mr. Davis and carried by the following vote:

VOTE: 4-0
AYE: Davis, Harville, Luther Saunders (4)
NAY: None (0).

REVIEW CITY-COUNTY PARTNERSHIP & REGIONAL INDUSTRIAL FACILITY AUTHORITY

Pittsylvania County Administrator Dan Sleeper gave a slide presentation outlining the history of the City-County partnership and the Danville Pittsylvania Regional Industrial Facility Authority. Mr. Sleeper listed the industries that were located in the region that involved collaboration between the City and the County. He said the loss of major industries such as tobacco, textiles, Corning Glass, furniture and others, rendered it was necessary to take stock of what was remaining and what needed to be done to draw other industries to the area. The creation of regional partnerships was one of the first steps toward revitalizing the region. The partnerships have resulted in the creation of facilities such as the Dan River Business Development Center, a regional fire school, the development of a regional sewer system and businesses that included Corning Glass, Goodyear, and a revenue-sharing agreement with Lowe's. This history brought about the idea for a regional industrial facility authority. The Danville-Pittsylvania Regional Industrial Facility Authority (RIFA) is the crown jewel derived from a long history of regional cooperation. Resulting from the establishment of the Authority in 2001, which marked the first time in the region's history that Danville and Pittsylvania County would jointly enter into contracts and jointly own businesses, are Cane Creek Centre, the Institute for Advanced Learning and Research in the Cyber Park, and development of the mega park at Berry Hill.

An opportunity for questions and comments followed Mr. Sleeper's presentation.

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MEGA PARK SITE BRIEFING

Dewberry & Davis Project Manager Shawn Harden briefed those in attendance on progress at the Berry Hill Mega Park Site. Mr. Harden noted that a certified mega site draws “game-changing” industries, such as automobile, chemical or steel. A certified site would mean an investment of \$800 million to \$1.2 billion, employment of 2,000-5,000 and would have a major impact on the region. He reported that to date, the tobacco funding allocation from RIFA is \$9,582,426 and tobacco funding from Pittsylvania County is \$3,000,000. The funding has been used for property acquisition, water line from Route 58 to the park and design fees and due diligence. Mr. Harden reviewed the total project cost as follows:

• Site certification/due diligence	\$ 2,000,000
• Property cost	\$13,100,000
• Water cost	\$25,280,000
• Sewer cost	\$ 9,612,000
• Power cost	\$33,000,000
• Gas cost	\$ 5,400,000
• Road cost	\$49,600,000
• Rail cost	<u>\$26,000,000</u>
Total cost for project	\$163,992,000.

Mr. Harden said the mega park site is the largest in Virginia and commented that former Governor Tim Kaine said the regional cooperation between the City and the County is a tribute to the localities. Governor Kaine said the localities were doing something very unusual in that he did not see this level of cooperation all over the Commonwealth.

City Manager Joe King stated the two local governing bodies should have a joint meeting at least every six months in order to share information of common interest and to receive updates on what is going on in the district.

City Council Member Larry Campbell said most citizens in the area are unaware of what both localities were doing and should be informed. Mr. Saunders agreed there needed to be ongoing discussions about the progress currently being made by the Joint Authority and the local governing bodies.

MCCALLUM SWEENEY CERTIFICATION REPORT – MEGA PARK SITE

McCallum Sweeney consultant Jeanette Goldsmith was present to give an update on the status of the certification process for the mega park site. She reviewed a PowerPoint presentation containing information explaining a certified site. She advised a certified site is one that meets certain site readiness criteria. These criteria are based on the location needs of private sector companies. Key attributes of a certified site include property that is available and ready for sale with established terms and conditions. The site is fully served. If all infrastructure (utilities and transportation) is not currently at the site, then plans (including cost and schedule) have been developed. The site is developable. Due diligence and engineering have been done to know that all acreage can be developed with no risk

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to project schedule. Due diligence and engineering include wetlands delineation, Phase I ESA, threatened and endangered species study, archeological and historical survey and geotechnical analysis.

Ms. Goldsmith reviewed the three phases for obtaining site certification. She said certified sites in Phase I would help the locality be more prepared to respond to requests for proposals by providing good data and meeting important deadlines. Certified sites in Phase II would be prepared for site visits and response to follow-up questions would be easier. In Phase III, site due diligence would be completed so closing the deal could be the priority.

At the conclusion of Ms. Goldsmith's presentation, board and local governing body members were given an opportunity for comments and questions.

ADDITION OF PUBLIC COMMENT SECTION ON FUTURE RIFA AGENDAS

Mr. Davis **moved** to place a public comment period on future RIFA agendas to include a three-minute time restriction for comments on an agenda item only. The Motion was seconded by Mr. Luther and carried by the following vote:

VOTE: 4-0
AYE: Davis, Harville, Luther Saunders (4)
NAY: None (0).

Mr. Luther said he had opposed the public comment period when it was presented at the June meeting because there were no restrictions included in the Motion at that time and would have allowed anyone to get on a soapbox to speak about items other than those on the agenda. He said he could support the comment period with the three-minute restriction. Mr. Harville concurred.

In response to Dr. Miller, Mr. Guanzon advised the Chairman of the Authority controls what items will be placed on the Authority agenda.

CONSIDER FUTURE RIFA MEETING SITE

City Manager Joe King asked the Board to consider moving the monthly RIFA meetings to the Conference Room at Danville Regional Airport. Mr. King said that while the Dan River Business Development Center has graciously allowed the Authority to meet in one of its conference rooms, more space was needed since there were more citizens and guests present for the meetings.

Mr. Harville **moved** to accept the recommendation of City Manager King and move the RIFA meetings to the Danville Regional Airport beginning January 1, 2011. The Motion was seconded by Mr. Davis and carried by the following vote:

VOTE: 4-0
AYE: Davis, Harville, Luther Saunders (4)
NAY: None (0).

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It was noted the next regular meeting of the Board would be held at the Dan River Business Development Center.

FINANCIAL REPORT

Mr. Saunders called attention to the Monthly Financial Report that had been distributed to Members prior to the Meeting. Members were asked to direct any questions to Danville Finance Director Barbara Dameron.

Upon **Motion** by Mr. Davis and second by Mr. Harville, the Monthly Financial Report was accepted as presented by the following vote:

VOTE: 4-0
AYE: Davis, Harville, Luther Saunders (4)
NAY: None (0).

Ms. Dameron called attention to a footnote relating to the Yorktowne reimbursement that had been included in the financial report. She advised the City and County both contributed \$525,000 to RIFA in July 2005 for Yorktowne incentives. Because Yorktowne did not meet the job requirements set forth in the Performance Agreement, they have to repay incentive money to account for the jobs not created. According to the revised performance Agreement, one payment has been received from Yorktowne in the amount of \$45,334.52. Another payment of \$136,004.79 is expected in November 2010. She said it is the board's discretion whether to allocate the money towards another RIFA project or send it back to the respective localities. How to allocate those funds has not been determined.

CLOSED MEETING

At 1:25 P.M., Mr. Saunders recognized Mr. Davis who **moved** the meeting be recessed and the Authority immediately convene in Closed Meeting for consultation with legal counsel pertaining to probable litigation, where such consultation or briefing in open meeting would adversely affect the litigating posture of the Authority as permitted by Subsection (A) (7) of Section 2.2-3711 of the Code of Virginia, 1950, as amended, and more specifically pertaining to probable litigation regarding Nancy Barbour Smith, et al. v. Pittsylvania County Board of Supervisors (Case No. CL10000088-00), and discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the Community as permitted by Subsection (A) (3) of Section 2.2-3711 of the Code of Virginia, 1950, as amended. The Motion was seconded by Mr. Luther and carried by the following vote:

VOTE: 4-0
AYE: Davis, Harville, Luther Saunders (4)
NAY: None (0).

At 2:20 P.M. the Authority returned to open meeting and Mr. Luther **moved** adoption of the following

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Resolution:

WHEREAS, the Authority convened in Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia, 1950, as amended, requires a Certification by the Authority that such Closed Meeting was conducted in conformity with Virginia Law;

NOW, THEREFORE, BE IT RESOLVED that the Authority hereby certifies that, to the best of each Member's knowledge, (i) only public business matters lawfully exempted by the open requirements of Virginia Law were discussed in the Closed Meeting to which this Certification Resolution applies, and (ii) only such public business matters as were identified in the Motion convening the Closed Meeting were heard, discussed, or considered by the Authority.

The Motion was seconded by Mr. Harville and carried by the following vote:

VOTE: 4-0
AYE: Davis, Harville, Luther, and Saunders (4)
NAY: None (0).

RESOLUTION AUTHORIZING CLEMENT & WHEATLEY TO REPRESENT RIFA IN MATTERS RELATED TO LITIGATION REGARDING NANCY BARBOUR SMITH, ET AL

Mr. Davis **moved** adoption of the following Resolution:

A RESOLUTION OF THE DANVILLE-PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY AUTHORITY

WHEREAS, the Danville-Pittsylvania Regional Industrial Facility Authority (the "Authority") is a political subdivision of the Commonwealth of Virginia duly created pursuant to the Virginia Regional Industrial Facilities Act, as amended; and

WHEREAS, as permitted by Subsection (A) (7) of Section 2.2-3711 of the Code of Virginia, 1950, as amended, the Authority's Board of Directors considered in closed session a proposal to authorize Clement & Wheatley, A Professional Corporation ("Clement & Wheatley") to represent the Authority in all matters related to the litigation pending in the Circuit Court of Pittsylvania County, Virginia, styled Nancy Barbour Smith, et al, v. Pittsylvania County Board of Supervisors, Case No. CL10000088-00, (the "Suit"), including without limitation, the authority to intervene in the Suit as a defendant alongside the Pittsylvania County Board of Supervisors; and

WHEREAS, the Board of Directors has determined that it is in the best interests of the Authority and of the citizens of Danville and Pittsylvania County for the Authority to authorize Clement & Wheatley to represent the Authority in all matters related to the Suit, including without limitation, the authority to intervene in the Suit as a defendant alongside the Pittsylvania County Board of Supervisors.

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NOW, THEREFORE, BE IT RESOLVED BY THE DANVILLE-PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY AUTHORITY, THAT:

1. The Authority hereby authorizes Clement & Wheatley to represent the Authority in all matters related to the Suit, including without limitation, the authority to intervene in the Suit as a defendant alongside the Pittsylvania County Board of Supervisors.
2. The Authority hereby authorizes and directs staff and other agents and representatives working on behalf of the Authority to take such actions and to do all such things as they in their discretion deem necessary or appropriate in order to carry out the intent and purposes of these resolutions.
3. The Authority hereby approves, ratifies and confirms any and all actions previously taken by the Authority, its agents and representatives, in respect of the matters contemplated therein.
4. This Resolution shall take effect immediately upon its adoption.

The Motion was seconded by Mr. Luther and carried by the following vote:

VOTE: 4-0
AYE: Davis, Harville, Luther Saunders (4)
NAY: None (0).

COMMUNICATIONS

There were no communications from Authority Members.

The Meeting adjourned at 2:25 P.M.

Chairman

Clerk to the Authority

AGENDA
ITEM NUMBER 7

GROUND LEASE

THIS GROUND LEASE (“Lease”) is made and entered into as of the 15th day of September, 2010, by and between **THE DANVILLE-PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY AUTHORITY**, a political subdivision of the Commonwealth of Virginia (“**RIFA**”), and **THE INSTITUTE FOR ADVANCED LEARNING AND RESEARCH**, a political subdivision of the Commonwealth of Virginia (“**IALR**”).

WHEREAS, the Tobacco Indemnification and Community Revitalization Commission (the "**Tobacco Commission**") has awarded a grant (the "**Grant**") to IALR for the construction of the Sustainable Energy Technology Center Building ("**SEnTeC Project**"); and

WHEREAS, RIFA is in general support of the SEnTeC Project to be constructed upon certain land owned by RIFA known as Portion of Parcel 78360.

NOW, THEREFORE, for and in consideration of the premises, covenants, and agreements contained, Ten Dollars (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, RIFA and IALR mutually covenant and agree as follows:

1. Term and Option to Purchase. The term of this Lease will be 240 months (the "**Term**"). At the end of the Term, subject to the provisions of paragraph 17 below, IALR will have the option to purchase (the "**Option**") the Demised Area (as hereafter defined) for the purchase price of \$100. If IALR exercises the Option, RIFA will convey fee simple title to the Demised Area by special warranty deed. If the Option is exercised, the deed conveying title to the Demised Premises will include any easements or cross-easements on or over Parcel 78360 or Parcel 76442 as RIFA, in its reasonable discretion, determines necessary for the enjoyment of the Demised Area. RIFA shall convey title to IALR free and clear of all liens and encumbrances, except for those liens and encumbrances of record at the time when this Lease is executed, as more particularly described in **Schedule 1**, or those to which IALR consents in writing ("**Permitted Exceptions**"), which consent shall not be unreasonably withheld, delayed or conditioned. During the Term, RIFA shall not convey, restrict or encumber the Demised Area or the remaining portion of Parcel 78360 without the prior written approval of IALR, which consent shall not be unreasonably withheld, delayed or conditioned. Nothing in this Lease will be intended to limit IALR's use of the remainder of Parcel 78360 as permitted in the existing lease between the parties. RIFA represents that it has all requisite power and authority to enter into this Lease and to carry out its obligations hereunder, including without limitation the

granting of the Option and the conveying of the Demised Area to IALR if the Option is exercised. IALR represents that it has all requisite power and authority to enter into this Lease and to carry out its obligations hereunder, including without limitation IALR's purchase of the Demised Area if the Option is exercised. Provided, however, that the Option shall be construed in all respects so as to not violate the terms and conditions of any awards and grants from the U.S. Department of Commerce Economic Development Administration (the "EDA") that pertain, in part or in whole, to the Demised Area, including without limitation Award 01-01-07639 (the "Award").

2. The Demised Area. The "**Demised Area**" shall mean the Portion of Parcel 78360, as more particularly described in **Schedule 2**, attached hereto and incorporated herein by this reference. In the event that IALR exercises the Option, RIFA will subdivide, at IALR's expense, the Demised Area into a separate legal lot. Prior to exercising the Option, IALR may, at its expense, subdivide the Demised Area into a separate legal lot, and RIFA will provide all reasonable assistance in carrying out the subdivision. The parties agree that the specific area subject to the Option may be modified as necessary to meet lot size requirements, provide minimum setbacks, and meet any other requirements at the time of the subdivision to obtain approval from all authorities having jurisdiction over the subdivision approval process. If the parties are unable to subdivide the property for the purpose of executing the Option, then they will negotiate in good faith for IALR to purchase the entire Parcel 78360, provided that such conveyance is permitted under any grants applicable to Parcel 78360, including without limitation the Award. If IALR is unable to acquire the entire Parcel with the approval of the EDA without paying any Federal Share (as defined in the Award), then IALR shall have the right to extend this Lease, including without limitation the Option, until the first to occur of: (i) the EDA no longer has a claim to any Federal Share; (ii) the EDA consents to the conveyance to IALR on such terms and conditions mutually acceptable to IALR and RIFA; or (iii) the term of the Award's requirements has expired. The parties acknowledge that in the event of such an extension of this Lease, IALR, in good faith, would use reasonable efforts to exercise the Option on or before the end of such extension.
3. Rental. During the Term, IALR will pay to RIFA as annual rental the sum of One Dollar (\$1.00). IALR shall have the right to prepay rent for the entire Term.
4. Use of the Demised Area. The Demised Area will be used and occupied by IALR (or its authorized subtenant(s) or assignee(s)) for a research and/or development facility as set forth in the Grant (as the same may be modified from time to time by the granting authority). The use of Demised Area also will be consistent with

all applicable zoning ordinances of the City of Danville, Virginia (the "**City**"), and all Permitted Exceptions.

5. Utilities. IALR will pay or cause to be paid, on a timely basis, directly to the provider thereof, all costs and charges for electricity, gas, sewer, heat, water, and all other utilities to the extent used by IALR on the Demised Area, and all taxes ("**Utility Taxes**") or charges imposed by the City or any other governmental or quasi-governmental units on such utility services which are used on or attributable to the Demised Area during the Term.

6. Authority to Construct Building as Part of SEnTeC Project. IALR will be authorized during the Term to construct a facility on the Demised Area, at IALR's expense, as IALR deems appropriate, provided that such construction will be performed and completed in accordance with requirements of the Grant (as the same may be modified from time to time by the granting authority), all applicable building code requirements, the requirements of any applicable zoning codes or ordinances, and if applicable, the requirements of the Americans with Disabilities Act. IALR will timely pay for all construction and will keep the Demised Area free from mechanics', materialmen's, and/or other laborers' liens as a result of any construction performed by or on behalf of IALR on any portion of the Demised Area during the Term. In the event that any such lien is filed against any portion of the Demised Area, IALR will, within sixty (60) days after receipt by IALR of notice of such lien, either (a) pay to such lien claimant such sums as are necessary to release such lien in full, or (b) if IALR desires to contest all or any portion of such lien, either: (i) post bond before the Danville Circuit Court sufficient to release such lien of record, or (ii) obtain a bond from a bank or insurance company reasonably acceptable to RIFA. IALR will cause all work performed in the construction on any portion of the Demised Area to be performed in a good and workmanlike manner, in conformity with all applicable requirements of law. All improvements constructed on, located on, or affixed to the Demised Area which are constructed or caused to be constructed by IALR during the Term will be owned by IALR. RIFA, at IALR's expense, will reasonably cooperate with IALR in obtaining all permits needed to develop, construct and operate any such improvements on the Demised Premises. IALR will have the right to make alterations to the initial improvements on the Demised Area during the Term and to construct new structures on the Demised Area as it deems appropriate, provided that all such alterations and improvements conform to the Grant (as the same may be modified from time to time by the granting authority) and local ordinances. At the end of the Term, IALR should have the right to leave or remove, at IALR's expense, all such improvements and alterations constituting equipment, fixtures, machinery, and all other personal property if IALR chooses

not to exercise the Option or extend the Lease; however, if IALR does not exercise the Option or extend the Lease and such removal occurs, IALR, at its expense, shall promptly repair all damages to the Demised Area as a result of such removal.

7. General Indemnification. Except for any claims resulting from the negligent acts of RIFA or its employees and agents (collectively, or individually, a "**RIFA Protected Party**"), IALR will, to the maximum extent allowable by law and without waiving sovereign immunity, indemnify and hold harmless RIFA, its directors, employees and agents, from any and all suits, actions, damages, claims, judgments, costs, liabilities, and expenses in connection with loss of life, bodily or personal injury, or property damage arising from or out of (a) any occurrence in, upon, or from the Demised Area or any improvements thereon, regardless of the person or entity alleged to be responsible for such damage or injury; (b) the use by IALR of the Demised Area occasioned in whole or in part by any act or omission by IALR, its agents, contractors, employees, servants, invitees, licensees, or subtenants; or (c) any action, activity, or use by IALR of any portion of the Demised Area, occasioned in whole or in part by any act or omission by IALR, its agents, contractors, employees, servants, invitees, licensees, or subtenants. IALR will agree to give prompt notice to RIFA in case of any fire or acts of God on the Demised Area, or any claims by third parties concerning defects in the Demised Area, or any fixtures or equipment located thereon. If any RIFA Protected Party is made a party to any litigation for which indemnification by IALR is required under this Lease, then IALR will pay all costs, expenses, and reasonable attorneys' fees which may be incurred by such RIFA Protected Party as a result of such litigation; provided, however, that should IALR, at its expenses, or at the expense of any insurance carrier, provide counsel for such RIFA Protected Party reasonably acceptable to such RIFA Protected Party or its insurer for such claim, then any additional counsel employed by such RIFA Protected Party in such claim will be solely at the expense of such RIFA Protected Party. IALR agrees to promptly notify RIFA of any claim, action, proceeding, or suit instituted or threatened in writing against IALR or RIFA, for which IALR has received written notice, with respect to or arising out of the Demised Area.
8. Casualty Insurance. Prior to IALR or its authorized subtenant's taking occupancy, IALR, at IALR's sole expense, will maintain throughout the Term, fire and extended coverage insurance covering all improvements on the Demised Area, in an amount equal to the replacement costs of all such improvements on the Demised Area. Such insurance will be maintained with an insurer licensed to issue such insurance in the Commonwealth of Virginia, and such insurance will

name both IALR and RIFA as insureds thereunder ("**Casualty Insurance**"). Upon reasonable request prior to taking occupancy, IALR will provide to RIFA a certificate of insurance evidencing that such Casualty Insurance is in full force and effect. Any such Casualty Insurance policy will also provide that such Casualty Insurance will not be cancelled or the coverage thereunder modified before the expiration of thirty (30) days after notice of such termination, cancellation, or modification is sent by such Casualty Insurance carrier to RIFA. In the event of any termination of such Casualty Insurance coverage, prior to the effective date of such termination, IALR will obtain a substitute Casualty Insurance policy so that coverage is continuous throughout the Term. IALR will, upon reasonable request by RIFA, provide to RIFA a certificate of insurance verifying that the required Casualty Insurance remains in full force and effect. In the event of a fire or other casualty which damages or destroys any improvements on the Demised Area, the proceeds of the Casualty Insurance will be utilized by IALR to repair, restore or rebuild, as the case may be, such improvements, unless otherwise consented by RIFA, which consent will not be unreasonably withheld, conditioned, or delayed.

9. Liability Insurance. Throughout the Term, IALR will maintain comprehensive general liability insurance, at IALR's sole expense, covering all conditions and operations on or upon the Demised Area, with minimum coverage in the amount of One Million Dollars (\$1,000,000) per occurrence and Three Million Dollars (\$3,000,000) in the aggregate, or such other lesser amount as is acceptable to RIFA ("**Liability Insurance**"). Such Liability Insurance will be provided by an insurance carrier licensed to issue such coverage in the Commonwealth of Virginia and will name both IALR and RIFA as insureds thereunder. Upon reasonable request prior to taking occupancy, IALR will provide to RIFA a certificate of insurance evidencing that such Liability Insurance is in full force and effect. Any such Liability Insurance policy will also provide that such Liability Insurance will not be cancelled or the coverage thereunder modified before the expiration of thirty (30) days after notice of such termination, cancellation, or modification is sent by such Liability Insurance carrier to RIFA. In the event of any termination of such Liability Insurance coverage, prior to the effective date of such termination, IALR will obtain a substitute Liability Insurance policy so that coverage is continuous throughout the Term. IALR will, upon reasonable request by RIFA, provide to RIFA a certificate of insurance verifying that the required Liability Insurance remains in full force and effect.
10. Builder's Risk Insurance. At any time during the Term that IALR, its contractors, or agents are performing any new construction, excluding customary ordinary maintenance and repairs, major repairs, minor modifications, and landscaping, on

any portion of the Demised Area, then, in addition to the Casualty Insurance otherwise required by this Lease, IALR will provide (directly or through its contractors) builder's risk insurance in the minimum amount of the costs of such construction, which builder's risk insurance will name IALR and RIFA as insureds thereunder; and at the written request of RIFA, IALR will provide reasonable evidence that such coverage is in full force and effect during such construction periods.

11. Destruction. In the event of any fire or other casualty causing damage to any improvements on the Demised Area, such damage or destruction will not result in a termination of this Lease and this Lease will remain in full force and effect.
12. Maintenance. As consideration for the terms of this Lease, IALR agrees, at its expense, to maintain throughout the Term all of the parking areas, landscaped areas, and all improvements located on the Demised Area in the manner hereafter set forth in this paragraph. The parties understand and agree that RIFA will have no maintenance responsibilities whatsoever, with respect to the parking areas, landscaped areas, the improvements, or any other portion of the Demised Area, and all such maintenance will be solely at IALR's expense. With respect to the Demised Area, IALR agrees to maintain throughout the Term the parking areas, landscaped areas, all improvements on the Demised Area, including both the interior and exterior thereof, and all plumbing, heating, air conditioning, and electrical systems, in good operating condition. Within thirty (30) days after the issuance of a temporary or permanent Certificate of Occupancy for the initial construction, IALR will have provided to RIFA all drawings, all written specification, all warranty documentation, and any other available documents relating to the SEnTeC Project construction, including but not limited to all plumbing, heating, air conditioning, and electrical systems.

13. Collateral Assignments and Leasehold Mortgages.

- a. No Prohibition. For the purposes of this paragraph, neither the assignment of IALR's interest to an institutional lender as collateral security (the "**Collateral Assignment**") nor the making of a Leasehold Mortgage (as hereinafter defined) will be deemed to constitute an assignment or transfer of this Lease or the subletting of the leasehold estate hereby created, nor will any Collateral Assignee (as hereinafter defined) or Leasehold Mortgagee (as hereinafter defined), as such, be deemed an assignee or transferee of this Lease or of the leasehold estate hereby created so as to require such Collateral Assignee or Leasehold Mortgagee, as such, to assume the performance of any of the terms, covenants or conditions on the part of IALR to be performed hereunder, but the assignee or purchaser at any sale of this Lease and of the leasehold estate hereby created under any instrument of assignment or transfer in lieu of the foreclosure of any Leasehold Mortgage, neither of which will require the consent of RIFA, will be deemed to be an assignee or transferee with the meaning of this paragraph and will be deemed to have assumed the performance of all of the post-assignment or post-purchase terms, covenants and conditions on the part of IALR to be performed hereunder. All obligations of IALR under this Lease accruing before such assignment or purchase shall remain those of IALR.
- b. Loan Obtained by IALR. IALR, at its option, will have the unlimited and unrestricted right, at any time and from time to time, at IALR's own expense, to negotiate and obtain a loan or loans which will be secured by an assignment or a mortgage of all or any part of IALR's interest in this Lease (including IALR's interest in any improvements or fixtures constructed on the Demised Area and any equipment or other personal property owned, leased or otherwise used by IALR in connection with the SEnTeC Project). Upon written request, RIFA will promptly execute and deliver to IALR (a) an attornment and non-disturbance agreement in the form reasonably requested by IALR's lender for the benefit of IALR and any permitted sublessees of IALR, and (b) a waiver of RIFA's landlord and related liens in respect of any trade fixtures, other fixtures and personal property of IALR.
- c. Notice to RIFA of Collateral Assignment or Leasehold Mortgage. Upon any Collateral Assignment or the placing of a Leasehold Mortgage, IALR will notify RIFA thereof, and of the address of the assignee of IALR's interest in the Lease (the "**Collateral Assignee**") or the holder of the

Leasehold Mortgage (the "**Leasehold Mortgage**"), as the case may be, to which notices will be sent. So long as a Collateral Assignment or a Leasehold Mortgage is in effect, then (i) no alteration, amendment or modification of this Lease will be effective without the prior written consent of such Collateral Assignee or Leasehold Mortgagee, (ii) no termination of this Lease by IALR, other than from default by IALR, will be effective without the prior written consent of the Collateral Assignee or Leasehold Mortgagee, and (iii) RIFA will not accept a surrender of the Demised Area or a cancellation of this Lease from IALR prior to the expiration or termination of this Lease without the prior written consent of the Collateral Assignee or Leasehold Mortgagee. For purposes hereof, the Tobacco Commission shall be deemed a Leasehold Mortgagee until the Tobacco Commission certifies in writing that all of the terms of the Grant have been satisfied and that IALR has been released from all further obligations under the Grant or until the Tobacco Commission (or its successor) is no longer in existence, whichever is earlier.

- d. Notice by RIFA to Collateral Assignee or Leasehold Mortgagee. When giving notice to IALR with respect to any default of IALR in accordance with the terms and provisions hereof, RIFA will also serve a copy of such notice upon each Collateral Assignee or Leasehold Mortgagee (of whose existence RIFA has been notified in writing by IALR), and no such notice to IALR will be effective unless and until a copy of such notice is given to the Collateral Assignee or Leasehold Mortgagee in the manner described in this Lease at the address for such Collateral Assignee or Leasehold Mortgagee last given in writing to RIFA. Each Collateral Assignee or Leasehold Mortgagee will have the same period after the giving of said notice to such Collateral Assignee or Leasehold Mortgagee for remedying the defaults or causing the same to be remedied as is given IALR after notice to IALR. Upon the occurrence of any default by IALR and the giving of the notice and the passage of any applicable cure period without such default having been cured, Collateral Assignee or Leasehold Mortgagee will have the right to cure such default, whether the same consists of failure to pay the rental or failure to make any other payment or to perform any other matter or thing which IALR is hereby required to do or perform, and RIFA will accept such performance on the part of the Collateral Assignee or Leasehold Mortgagee as though the same had been done or performed by IALR. In the case of any default by IALR, other than in the payment of money hereunder, RIFA will take no action to effect a termination of this Lease without first giving to the Collateral Assignee or Leasehold Mortgagee thirty (30) days within which either (i)

to obtain possession of the Demised Area (including possession of a receiver) and cure such default in the case of a default which is susceptible of being cured when the Collateral Assignee or Leasehold Mortgagee has obtained possession, or (ii) to institute foreclosure proceedings and complete such foreclosure, or otherwise acquire IALR's interest under this Lease, with diligence and continuity in the case of a default which is not susceptible of being cured by the Collateral Assignee or Leasehold Mortgagee; provided, however, that the Collateral Assignee or Leasehold Mortgagee will not be required to continue such possession or continue such foreclosure proceedings if the default which will have been the reason for effecting a termination of this Lease will preclude RIFA from exercising any rights and remedies under this Lease with respect to any other default by IALR during any period of such forbearance, subject to the provisions hereof. Any Collateral Assignee or Leasehold Mortgagee may become the legal owner and holder of this Lease by foreclosure of its Leasehold Mortgage, or as a result of the assignment of this Lease in lieu of foreclosure.

- e. New Lease. In the event of the termination of this Lease prior to its stated expiration date, RIFA will give the Collateral Assignee or Leasehold Mortgagee notice of such termination. RIFA will enter into a new lease of the Demised Area with the Collateral Assignee or Leasehold Mortgagee or the holders of notes secured by the Collateral Assignment or Leasehold Mortgage held by such Collateral Assignee or Leasehold Mortgagee, or, at the request of such Collateral Assignee or Leasehold Mortgagee, to such other person as such Collateral Assignee or Leasehold Mortgagee will designate, for the remainder of the Term, effective as of the date of such termination of such prior lease, at the rental and upon the covenants, agreements, terms, conditions and limitations herein contained, provided that such Collateral Assignee or Leasehold Mortgagee makes written request upon RIFA for such new lease within fifteen (15) days from the date of notice of such termination and such written request is accompanied by payment to RIFA of all amounts then due to RIFA under this Lease.
- f. Definition of Leasehold Mortgage. The term "**Leasehold Mortgage**" shall include mortgage, deed of trust or other such classes of instruments as are commonly given to secure advances on, or the unpaid purchase price of, real estate and leasehold interests under the laws of the Commonwealth of Virginia and/or the credit instruments, if any, secured thereby. Moreover, Leasehold Mortgage shall also include any regulatory or similar agreement, whether or not recorded in the land records, between

IALR and the Tobacco Commission pertaining to the Grant, the conditions thereof, and the use of the Grant proceeds.

14. Eminent Domain.

- a. Substantial Taking. In the event that a Substantial Portion (as hereafter defined) of the Demised Area shall be taken for public improvements or otherwise under the exercise of the right of eminent domain, then upon such taking, IALR will have the right to terminate this Lease. RIFA will deliver written notice of such taking to IALR within sixty (60) days after such taking, and IALR will have thirty (30) days after such notice from RIFA in which to notify RIFA that IALR wishes to terminate this Lease. If IALR elects not to terminate this Lease, this Lease will automatically be deemed amended so that the Demised Area describes only the portion of the Demised Area remaining after such taking, without any abatement of rent, and RIFA agrees to apply the award RIFA receives in accordance with the provisions of paragraph 14(b) below. Any award as a result of the taking of the Demised Area (or portion thereof) by eminent domain will be paid to and belong to RIFA; provided, however, that IALR may present a separate claim for any property owned by IALR which is taken in or in conjunction with such proceeding. For these purposes, "**Substantial Portion**" shall mean either (a) a taking of any portion of any improvements on the Demised Area or any taking which materially adversely affects access to the Demised Area or (b) a taking of any portion of any improvements to the Demised Area that will cause IALR to be unable to carry on its business in its usual and customary manner as determined in the reasonable judgment of IALR. IALR will have the right to participate in any condemnation proceedings and be represented by counsel for the purpose of protecting IALR's interests under this Lease. Furthermore, IALR will be able to make a separate claim to the condemning authority for the value of IALR's inventory, removable trade fixtures, machinery, moving expenses, and business damages and loss of IALR's beneficial interest under this Lease including the Option, provided that the making of such claim or claims does not adversely affect or diminish RIFA's award for the value of the land.
- b. Partial Taking. If only a portion of the Demised Area is taken by eminent domain proceedings and such portion taken does not constitute a Substantial Portion of the Demised Area as defined in paragraph 14(a) above, or IALR has elected to continue this Lease despite a taking which constitutes a Substantial Portion, this Lease will not terminate and rent

will not abate, and this Lease will continue in full force and effect; provided, however, that any award for such partial taking will be applied in the following order: (i) RIFA will be reimbursed for any actual out-of-pocket costs incurred in obtaining such award; (ii) the costs to retrofit the remainder of the Demised Area as is necessary for its intended use under this Lease will be paid out of the award, solely from the condemning authority; and (iii) the remainder will be paid to RIFA. IALR will be able to make a separate claim to the condemning authority for the value of IALR's inventory, removable trade fixtures, machinery, moving expenses, and business damages and loss of IALR's beneficial interest under this Lease, including the Option, provided that the making of such claim or claims does not adversely affect or diminish RIFA's award for the value of the land.

15. Remedies on IALR's Default.

- a. IALR's Default. In the event that IALR: (i) does not cease all conduct prohibited hereby within thirty (30) days following receipt of written notice from RIFA; (ii) fails to remedy IALR's failure to perform any of the terms, covenants, and conditions of this Lease within thirty (30) days following receipt of written notice from RIFA; (iii) commits an uncured act in violation of this Lease, and such violation is not cured within thirty (30) days following receipt of written notice from RIFA, (iv) is adjudicated bankrupt or insolvent by a court of competent jurisdiction, or files any debtor proceeding, takes or has taken against IALR any petition of bankruptcy; takes action or has action taken against IALR for the appointment of a receiver for all or a portion of IALR's assets; files a petition for a corporate reorganization; makes an assignment for the benefit of creditors, or if in any other manner IALR's interest hereunder shall pass to another by operation of law (any or all of the occurrences in this paragraph 15(a)(iv) shall be deemed a default on account of bankruptcy for the purposes hereof and such default on account of bankruptcy shall apply to and include any guarantor of this Lease); (v) commits waste to the Demised Area without cure or restoration within the respective required time frame; (vi) fails to meet or is not in compliance with all of the requirements of the Grant (as the same may be modified from time to time by the granting authority) and all applicable cure periods, if any, under the Grant have expired; or (vii) is otherwise in breach of IALR's obligations hereunder and shall not have cured same within thirty (30) days following written notice from RIFA; then IALR will be in default hereunder and RIFA may, at its option and without

further notice to IALR, terminate IALR's right to possession of the Demised Area and without terminating this Lease re-enter and resume possession of the Demised Area, and/or declare this Lease terminated, and may thereupon in either event remove all persons and property from the Demised Area, in accordance with the laws of the Commonwealth of Virginia. If any of the defaults described above are of a nature that they cannot through the exercise of diligent and reasonable efforts be cured within the time frames allotted above, then IALR will not be in default in such instance if IALR promptly commences and diligently pursues the cure of such default(s).

- b. Bankruptcy. If RIFA shall not be permitted to terminate this Lease, as hereinabove provided, because of the provisions of Title 11 of the United States Code relating to Bankruptcy, as amended, then IALR, as a debtor-in-possession or any trustee for IALR, agrees to promptly, within no more than sixty (60) days upon request by RIFA to the United States Bankruptcy Court, assume or reject this Lease. IALR further agrees that IALR, on its behalf and any trustee for IALR, shall not seek or request any extension or adjournment of any application to assume or reject this Lease by RIFA with such Court. In such event, IALR or any trustee for IALR may only assume this Lease if it: (i) cures or provides adequate assurance that the trustee shall promptly cure any default hereunder; (ii) compensates or provides adequate assurances that IALR shall promptly compensate RIFA for any actual pecuniary loss to RIFA resulting from IALR's defaults; and (iii) provides adequate assurance of performance during the Term of all of the terms, covenants, and provisions of this Lease to be performed by IALR. In no event after the assumption of this Lease shall any then existing default remain uncured for a period in excess of the earlier of ten (10) days or the time period set forth herein.
- c. Legal Remedies. The parties agree that the remedies provided in this Lease in the event of default on the part of IALR are in addition to and not in lieu of any other remedies or relief made available to IALR under applicable state law, which latter remedies or relief shall be likewise available to RIFA in the event of a breach of any of the terms of this Lease.
- d. Attorneys' Fees. Upon the occurrence of a default by IALR as defined in paragraph 15(a) above, if RIFA employs or retains legal counsel to enforce the terms of this Lease as a result of such default, whether such employment requires institution of suit or other legal services required to

secure compliance on the part of IALR, IALR shall be responsible for and shall promptly pay to RIFA the reasonable attorneys' fees incurred by RIFA. With respect to any other disputes or claims by either party under or pursuant to this Lease which result in any legal proceedings concerning such disputes, the parties agree that the prevailing party shall be entitled to recover from the non-prevailing party its reasonable attorneys' fees incurred in such action.

16. Hazardous Materials. IALR will not cause or permit the storage, use, generation, release, or disposition of any Hazardous Materials in, on, or about the Demised Area, in violation of any Environmental Laws, by IALR, its agents, employees, contractors, guests, licensees, or invitees present on the Demised Area during the Term. Notwithstanding the foregoing, IALR may use and store on the Demised Area any chemicals, solvents, or other materials customarily used in the ordinary course of IALR's business and for such uses of the Demised Area permitted in this Lease, so long as such substances are used and handled as prescribed by the manufacturer(s) thereof and in accordance with all requirements of applicable law, and are kept on the Demised Area only in such quantities as reasonably necessary for IALR's business and stored in a proper and legal manner. IALR will not permit the Demised Area to be used or operated in a manner that may cause any portion of the Demised Area to be contaminated by any Hazardous Materials in violation of any Environmental Laws. IALR will immediately inform RIFA in writing of (1) any and all enforcement, cleanup, remedial, removal, or other governmental or regulatory actions instituted, completed, or threatened pursuant to any Environmental Laws relating to any Hazardous Materials affecting the Demised Area; and (2) all claims made or threatened by any third party against IALR, RIFA, and/or the Demised Area relating to damage, contribution, cost recovery, compensation, loss, or injury resulting from any Hazardous Materials on or about the Demised Area. Without RIFA's prior written consent, IALR will not take any remedial action or enter into any agreements or settlements in response to the presence of any Hazardous Materials, in, on or about the Demised Area. IALR shall also provide, during the Term or any extensions thereof, reasonable policing of the Demised Area as will be customary or reasonable for a business owner of the same type as IALR operating from premises owned by such business. To the maximum extent allowable by law and without waiving sovereign immunity, IALR will be solely responsible for and will defend, indemnify and hold RIFA, its agents, and employees harmless from and against all claims, costs, expenses, damages, and liabilities, including attorneys' fees and costs, arising out of or in connection with (i) IALR's breach of its obligations in this paragraph, and (ii) the removal, cleanup, and restoration work and materials necessary to remediate any such breach in a manner which

properly removes all Hazardous Materials from the Demised Area placed on the Demised Area in violation of IALR's obligations hereunder. IALR's obligations under the paragraph will survive the expiration or other termination of this Lease.

For the purposes of this Lease, "**Hazardous Materials**" shall mean polychlorinated biphenyls, petroleum, flammable explosives, radioactive materials, asbestos and any hazardous, toxic or dangerous waste, substance or material defined as "**Regulated Substances**", "**Toxic Substances**", "**Hazardous Chemicals**", "**Hazardous Materials**", "**Hazardous Substances**", or similar terms, in any Environmental Law or listed as such by the Environmental Protection Agency. For the purposes of this Lease, "**Environmental Law**" shall mean any and all federal, state or local laws, statutes, ordinances, regulations, orders or decrees for the protection of human health, the environment or public safety, now in existence or hereafter promulgated, including without limitation the Resource Conservation and Recovery Act of 1976 (RCRA), 42 U.S.C. §§ 6901 *et seq.*, the Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA), 42 U.S.C. §§ 9601-9657 as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), the Hazardous Materials Transportation Authorization Act of 1994, 49 U.S.C. §§ 5101 *et seq.*, the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.*, the Clean Air Act, 42 U.S.C. §§ 741 *et seq.*, the Clean Water Act, 33 U.S.C. § 7401, the Toxic Substance Control Act, 15 U.S.C. §§ 2601-2629, the Safe Drinking Water Act, 42 U.S.C. § 300(f)-(j), the Chesapeake Bay Preservation Act, the Solid Waste Disposal Act, the Endangered Species Act of 1973, and any and all state or federal wetlands control acts, and any successor provisions of law as the same may be amended from time to time.

17. Conveyance of the Demised Area.

- a. IALR has met all obligations under the Grant and Other RIFA Requirements. If at any time during the Term or within thirty (30) days after the end of the Term, IALR has satisfied, and continues to satisfy all of the obligations under the Grant (as the same may be modified from time to time by the granting authority) and the Tobacco Commission has released IALR from all further obligations under the Grant, then IALR will have the option to purchase the Demised Area, together with all improvements thereon and together with such easements, rights of way and other rights as have been associated with the use of the Demised Area by IALR as lessee (collectively, the "**Option Property**") at a purchase price set forth in paragraph 1 above. If IALR exercises such purchase right, as evidenced by written notice delivered to RIFA on or before thirty (30) days after the termination of this Lease, then RIFA will convey the

Option Property to IALR by special warranty deed, free and clear of all liens and encumbrances except Permitted Exceptions, on or before ten (10) days after the expiration of the Term or earlier termination of this Lease. IALR agrees to accept the Demised Area "AS IS", "WHERE AS" and "WITH ALL FAULTS".

- b. Purchase. If IALR has not satisfied, or not continued to satisfy all of the obligations under the Grant (as the same may be modified from time to time by the granting authority), and the Tobacco Commission has not released IALR from all further obligations under the Grant by the end of the Term, then IALR shall have the option to purchase the Option Property at a purchase price equal to the tax assessed land value of the Demised Area. If IALR exercises such purchase right, as evidenced by written notice delivered to RIFA on or before thirty (30) days after the termination of this Lease, then RIFA will convey the Option Property to IALR by special warranty deed, free and clear of all liens and encumbrances except Permitted Exceptions, on or before forty-five (45) days after the termination of this Lease.
 - c. Continuation of this Lease. In the event that IALR exercises its option to purchase the Option Property, and closing on the purchase and sale of the Option Property does not occur prior to the termination of this Lease, this Lease shall be automatically extended until closing occurs on the terms and conditions set forth herein. In the event subdivision of Parcel 78360 is not possible or not reasonably practicable and the parties negotiate for the purchase of the entire Parcel as contemplated in paragraph 2 above, this Lease shall be automatically extended for a period of 120 days until IALR gives notice of its intent to further extend this Lease as set forth in paragraph 2 above or notice to terminate this Lease.
18. General Provisions.

- a. RIFA's Right of Entry. During the Term, RIFA reserves the right at (i) reasonable times during normal business hours upon at least 48 hours notice to IALR, and (ii) such other reasonable times during an emergency requiring first responders with reasonable notice to IALR, to enter the Demised Area for the purpose of inspecting and examining the same and to ensure compliance by IALR with its obligations under this Lease. RIFA and its agents shall use reasonable care not to materially disturb IALR or IALR's business during any such inspection or examination of any improvements on the Demised Area. If necessary due to the nature of the research work being conducted by IALR on the Demised Premises, IALR may restrict RIFA's access to certain areas in the building or require that RIFA be escorted by IALR personnel, except for an emergency requiring first responders. Nothing herein contained, however, shall be deemed or construed to impose upon RIFA any obligation, responsibility or liability whatsoever for the care, maintenance or repair of improvements on the Demised Area, or any part thereof.
- b. Quiet Enjoyment. RIFA agrees that IALR shall lawfully and peaceably have, hold, possess, use and occupy and enjoy the Demised Area during the Term, without hindrance disturbance or molestation from RIFA, subject to the specific provisions of this Lease.
- c. Waiver. Waiver by RIFA of any default, breach, or failure of IALR under this Lease shall not be construed to be a waiver of any subsequent or different default, breach, or failure. In case of a breach by IALR of any of the covenants or undertakings of IALR, RIFA nevertheless may accept from IALR any payment or payments hereunder without in any way waiving any of RIFA's right upon default for any other breach or lapse which was in existence at the time such payment or payments were accepted by RIFA.
- d. Liability of RIFA. Notwithstanding any provision of this Lease to the contrary, the liability of RIFA under this Lease will be limited to its interest in the Demised Area and there will be no recourse under this Lease to any other assets or properties of RIFA whether now owned or hereafter acquired.
- e. Memorandum of Lease. Contemporaneously with the execution of this Lease, the parties will execute a Memorandum of Ground Lease in the form attached hereto as Schedule 3. IALR will be entitled, at IALR's

expense, to record the Memorandum of Ground Lease.

- f. Further Assurances. The parties agree to execute such further documents and undertake such further acts as may reasonably be necessary, in good faith, to carry out the purposes of this Lease, the Grant, and the Award and to assist IALR in obtaining leasehold title insurance.
- g. Gender and Number. Throughout this Lease, wherever the context requires or permits, the neuter gender shall be deemed to include the masculine and feminine, and the singular number to include the plural, and vice versa.
- h. Counterparts. This Lease may be executed in one (1) or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Lease.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, RIFA and IALR have caused this **GROUND LEASE** to be executed as of the day and year first written above.

LANDLORD:

DANVILLE-PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY AUTHORITY, a political subdivision of the Commonwealth of Virginia

By: _____
Name: _____
Title: _____

COMMONWEALTH OF VIRGINIA
CITY / COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged before me this _____ day of _____, 2010, by _____, Chairman/Vice Chairman of Danville-Pittsylvania Regional Industrial Facility Authority, on behalf of said Landlord.

Notary Public
Registration No. _____

My Commission Expires:

IN WITNESS WHEREOF, RIFA and IALR have caused this **GROUND LEASE** to be executed as of the day and year first written above.

TENANT:

INSTITUTE FOR ADVANCED LEARNING AND RESEARCH, a political subdivision of the Commonwealth of Virginia

By: _____
Title: _____

COMMONWEALTH OF VIRGINIA
CITY / COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged before me this _____ day of _____, 2010, by _____, _____ of Institute for Advanced Learning and Research, on behalf of said Tenant.

Notary Public
Registration No. _____

My Commission Expires:

Schedule 1
(Permitted Exceptions As of Execution of Ground Lease)

Schedule 1
Permitted Exceptions

1. Terms, provisions, covenants, conditions, restrictions easements, liens, assessments, developer rights, options, rights of first refusal and reservations appearing of record in/as Instrument No. 05-1671 and Instrument No. 00-2582, but omitting any covenants or restrictions, if any, based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law.
2. Easement granted from George B. Gilbert et al to City of Danville by instrument dated June 4, 1952 recorded in/as Deed Book 348, page 478.
3. Easement granted from L. I. Ramey to Chesapeake and Potomac Telephone Company of Virginia by instrument dated December 10, 1946 recorded in/as Deed Book 279, Page 46.
4. Easement granted from R. B. Gilbert to Chesapeake and Potomac Telephone Company of Virginia by instrument dated March 17, 1924 recorded in/as Deed Book 194, Page 359.
5. Easement granted from Robert B. Gilbert, III and Helen W. Gilbert to Appalachian Power Company by instrument dated November 10, 1972 recorded in/as Deed Book 564, Page 631.
6. Easement granted from Helen W. Gilbert et al to Pittsylvania County Service Authority by instrument dated March 30, 1983 recorded in/as Deed Book 729, Page 578.

NOTE: See Assignment to City of Danville recorded in Pittsylvania County in Deed Book 842, at page 718 and recorded in the City of Danville in Deed Book 796, at page 42.

7. Matters shown on plat of record:
Survey by Dewberry & Davis, Inc. dated March 20, 2009, recorded as Instrument No. 09-1479 indicates the following:
 1. Storm Detention Pond located on the westerly portion of subject property. Note: The pond is located partially on subject property and partially on the property adjoining on the west.
 2. Riser, 36" corrugated metal pipe, 24" reinforced concrete pipes, 6" pvc pipe, and storm drain manhole crossing the westerly portion of the subject property.
 3. 20' sanitary sewer easement and 20' storm drain easement crossing the westerly portion of subject property.
 4. Sanitary sewer and manholes crossing the westerly portions of subject property.

5. 100' Appalachian and Power Company easement and overhead electric lines crossing the southerly and easterly portion of subject property.
6. 15' utility easement crossing subject property.
7. Southwesterly property line along centerline of branch.
8. Storm drain inlet crossing the northerly portion of subject property.

8. Agreement dated December 30, 2008, recorded in Instrument No. 09-1218.

9. Easement granted Chesapeake and Potomac Telephone Company of Virginia dated December 10, 1946, and recorded in Deed Book 279, page 45.

10. Easement granted City of Danville dated March 19, 1956 and recorded in Deed book 366, page 364.

11. Easement granted City of Danville dated October 8, 1959 and recorded in Deed Book 393, page 128.

12. Easement granted Chesapeake and Potomac Telephone Company of Virginia dated June 18, 1975 and recorded in Deed Book 607, page 352.

13. Easement granted City of Danville dated May 7, 1941 and recorded in Deed Book 258, page 542.

14. Easement granted Chesapeake and Potomac Telephone Company of Virginia dated January 9, 1941 and recorded in Deed Book 266, page 482.

15. Easement granted Appalachian Power Company dated November 8, 1972 and recorded in Deed Book 564, page 627.

16. Easement granted City of Danville dated May 11, 1979 and recorded in Deed book 667, page 800.

17. Easement granted the City of Danville dated November 8, 1985 and recorded in Deed Book 769, page 516.

18. Easement granted Pittsylvania County Service authority dated September 23, 1983 and recorded in Deed Book 730, page 363. Assignment recorded in the County Clerk's Office in Deed Book 842, page 718 and City Clerk's Office in Deed Book 796, page 42.

19. Matters as shown on plat recorded as Instrument Number 96-2595.

20. Easement granted City of Danville dated August 23, 1932, and recorded in Deed Book 214, page 352.

21. Easement granted Chesapeake and Potomac Telephone Company of Virginia dated March 17, 1924 and recorded in Deed Book 194, page 359.
22. Easement granted Appalachian Power Company dated November 10, 1972 and recorded in Deed Book 564, page 631.
23. Easement granted City of Danville dated April 27, 1966 and recorded in Deed Book 469, page 383.
24. Easement granted Pittsylvania County Service Authority dated March 30, 1983 and recorded in Deed Book 729, page 578. Assignment recorded in the County Clerk's Office in Deed Book 842, page 718 and in the City Clerk's Office in Deed Book 796, page 42.
25. Easement granted City of Danville dated January 21, 1980 and recorded in Deed Book 680, page 569.
26. Matters as shown on plat recorded as Instrument Number 96-922
27. Easement granted City of Danville dated November 5, 1996 and recorded as Instrument Number 96-5263, page 22.
28. Easement granted Appalachian Power Company dated March 2, 1973 and recorded in Deed Book 569, page 591.
29. Easement granted Appalachian Power Company dated October 26, 1972 and recorded in Deed Book 563, page 413.
30. Matters as shown on plat recorded in Map Book 22, page 408.
31. Easement granted City of Danville dated June 12, 1965 and recorded in Deed Book 445, page 234.
32. Easement granted Appalachian Power Company dated November 14, 1972 and recorded in Deed Book 564, page 629.
33. Easement granted Chesapeake and Potomac Telephone Company dated January 29, 1980 and recorded in Deed Book 682, page 127.
34. Easement granted Pittsylvania County Service Authority dated December 20, 1982 and recorded in Deed Book 729, page 614. Assignment recorded in the County Clerk's Office in Deed Book 842, page 718 and in the City Clerk's office in Deed Book 796,

page 42.

35. Rights or claims of parties in possession and easements or claims of easements not shown by the public records, boundary line disputes, overlaps, encroachments, and any matters not of record which would be disclosed by an accurate survey and inspection of the premises.
- 36.* All other matters of record as of the date this Lease.

* The parties agree that should IALR deliver a title insurance policy naming RIFA as an additional insured, dated as of the date of this Lease, in a form satisfactory to RIFA, RIFA, in good faith, shall consider amending and removing Item 36 of this Schedule 1.

Schedule 2
(Demised Area the Portion of Parcel 78360)

Schedule 3
(Memorandum of Lease)

Schedule 3

This instrument prepared by:
Glenn, Feldmann, Darby & Goodlatte
P. O. Box 2887
Roanoke, Virginia 24001-2887

Tax Map Identification Number: 78360

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE is executed as of the ___ day of September 2010, to evidence for recording purposes the execution of a certain Ground Lease (the "Lease"), dated the date hereof, the relevant terms of which are set forth below:

1. Name and Addresses of Parties: The landlord under the Lease is DANVILLE-PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY AUTHORITY, a political subdivision of the Commonwealth of Virginia ("Landlord"), whose office address is 427 Patton Street, Room 428, Danville, VA 24541. The tenant under the Lease is INSTITUTE FOR ADVANCED LEARNING AND RESEARCH, a political subdivision of the Commonwealth of Virginia ("Tenant"), whose office address is 150 Slayton Avenue, Danville, VA 24540.

2. Reference to Lease: Landlord hereby grants, leases and demises unto Tenant the Premises (as hereinafter defined) for the term of the Lease, subject to the terms and conditions of the Lease which are made a part hereof by this reference. This Memorandum of Lease is not a complete summary of the Lease. In the event of a conflict between the language of this Memorandum of Lease and the terms of the Lease, the terms of the Lease shall govern. A copy of the Lease is maintained in Tenant's files at the Tenant's office set forth above.

3. Term of the Lease: The term of the Lease is two hundred forty (240) months (the "Initial Term") commencing on September 15, 2010 and terminating on September 14, 2030, unless sooner terminated as set forth in the Lease.

4. Option to Purchase; Extend: The Lease grants the Tenant the right to purchase the Premises (as hereinafter defined) or extend the Lease at the expiration of the Initial Term.

5. Description of Premises: The property demised to Tenant under the Lease (the "Premises") is described in Exhibit "A" attached hereto and incorporated herein by this reference.

6. Severability: This Memorandum of Lease (i) shall be construed in all respects so as to not violate, and (ii) shall in all respects be subordinate to, the terms and conditions of any awards and grants from the U.S. Department of Commerce Economic Development Administration that pertain, in part or in whole, to the Premises, including without limitation Award 01-01-07639.

IN WITNESS WHEREOF, Landlord and Tenant have caused this Memorandum of Lease to be executed as of the day and year first above written. The following signature and seal of Danville-Pittsylvania Regional Industrial Facility Authority (Landlord), on page 2, and the following signature and seal of Institute for Advanced Learning and Research (Tenant), on page 3:

LANDLORD:

DANVILLE-PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY AUTHORITY, a political subdivision of the Commonwealth of Virginia

By: _____
Name: _____
Title: _____

COMMONWEALTH OF VIRGINIA
CITY / COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged before me this _____ day of _____, 2010, by _____, Chairman/Vice Chairman of Danville-Pittsylvania Regional Industrial Facility Authority, on behalf of said Landlord.

Notary Public
Registration No. _____

My Commission Expires:

TENANT:

INSTITUTE FOR ADVANCED LEARNING AND RESEARCH, a political subdivision of the Commonwealth of Virginia

By: _____
Title: _____

COMMONWEALTH OF VIRGINIA
CITY / COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged before me this _____ day of _____, 2010, by _____, _____ of Institute for Advanced Learning and Research, on behalf of said Tenant.

Notary Public
Registration No. _____

My Commission Expires:

AGENDA
ITEM NUMBER 8

A RESOLUTION SUPPORTING THE SUBMISSION OF AN APPLICATION TO THE VIRGINIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT FOR AN ENTERPRISE ZONE DESIGNATION FOR THE MEGA PARK PROPERTY, LOCATED IN PITTSYLVANIA COUNTY AND OWNED BY THE DANVILLE-PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY AUTHORITY.

WHEREAS, the Commonwealth of Virginia has developed an Enterprise Zone Program, which offers incentives to encourage economic development projects that result in local private investments and local job creation; and

WHEREAS, the City of Danville and the County of Pittsylvania are jointly developing a Mega Park project located in Pittsylvania County; and

WHEREAS, the City of Danville and the County of Pittsylvania have jointly formed the Danville-Pittsylvania Regional Industrial Facility Authority, and jointly signed an Agreement For Cost Sharing and Revenue Sharing; and

WHEREAS, the joint Agreement states that the cost of Recruitment Incentives will be equally shared between the City of Danville and the County of Pittsylvania for any of the joint regional facilities;

THEREFORE BE IT RESOLVED that the Danville-Pittsylvania Regional Industrial Facility Authority supports the application by Pittsylvania County for a new Enterprise Zone that incorporates the jointly owned Mega Park property;

AND BE IT FURTHER RESOLVED that the Danville-Pittsylvania Regional Industrial Facility Authority agrees to the following statements:

1. Any local Enterprise Zone incentives proposed in the referenced application represent a firm commitment by both member localities and the Danville-Pittsylvania Regional Industrial Facility Authority;
2. The participating localities have established an Agreement to ensure that economic benefits of the new Enterprise Zone will be shared between the member localities should the Zone be designated;
3. It is understood that if at any time the participating localities are unable or unwilling to fulfill the commitment to provide the local Enterprise Zone incentives listed in the referenced application, the Zone shall be subject to termination;
4. The Danville-Pittsylvania Regional Industrial Facility Authority's commitment to share the cost of the local Enterprise Zone incentives included in the referenced application is limited to incentives offered for economic development activities on property identified in the joint Agreement for Cost Sharing and Revenue Sharing Between the City of Danville, Virginia and Pittsylvania County, Virginia, dated October 2, 2001,

and further amended November 6, 2008, as the "Mega Park".
Cost Sharing includes the costs of (A) Construction and
Development Costs, (B) Marketing and Promotional Costs,
(C) Recruitment Incentives, and (D) Utility Extensions,
all as more particularly described in such Agreement.

APPROVED:

CHAIRMAN

ATTEST:

CLERK

Part 2 - Local Incentive Narrative (Complete one for each of the proposed incentives)

Proposed Enterprise Zone Name:

Incentive #: 1 Name: Real Estate Tax Grant Description: A grant based on the increase in assessed value due to real property improvements associated with new building construction and expansions in the zone. Grant amount is: Year 1 75% of the increase in assessed value Year 2 50% of the increase in assessed value Year 3 25% of the increase in assessed value Encourages businesses to locate and expand by lowering initial start-up costs.	Locality/Provider: Danville-Pittsylvania Regional Authority
	Qualification Requirements: New Constr. - Improvements with minimum assessed value of \$200,000 and 25 new jobs. Expansion - value of \$100,000 and 15 new jobs
	Exclusive to Zone: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, please explain how incentives will be tailored to Zone
	Period of Availability: Life of Zone
Financial Value of Incentive: Value will vary with investment.	Effective Date: Upon Zone Designation
Action to Implement: <input type="checkbox"/> Local Ordinance <input checked="" type="checkbox"/> Approval by Board of Supervisors <input type="checkbox"/> Other,	Source of Funds: Foregone Revenue Annual Budget Allocation, pending approval: N/A

Incentive #: 2 Name: Machinery and Tools Tax Grant Description: A grant based on the assessed tax for newly purchased or newly leased machinery and tools associated with new or expanding businesses within the zone. Grant amount is equal to: Year 1 75% of assessed M&T tax Year 2 50% of assessed M&T tax Year 3 25% of assessed M&T tax Encourages businesses to locate and expand by lowering initial start-up costs.	Locality/Provider: Danville-Pittsylvania Regional
	Qualification Requirements: New Constr. - Creation of at least 25 new jobs Expansion - Creation of at least 15 new jobs
	Exclusive to Zone: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, please explain how incentives will be tailored to Zone
	Period of Availability: Life of Zone
Financial Value of Incentive: Value will vary with investment	Effective Date: Upon Zone Designation
Action to Implement: <input type="checkbox"/> Local Ordinance <input checked="" type="checkbox"/> Approval by Board <input type="checkbox"/> Other,	Source of Funds: Foregone Revenue Annual Budget Allocation, pending approval: N/A

Part 2 - Local Incentive Narrative (Complete one for each of the proposed incentives)

Proposed Enterprise Zone Name:	
Incentive #: 3 Name: Job Creation Grant Description: Grant payment of \$250 per grant eligible, full-time permanent job.Same eligibility requirements as the Virginia Enterprise Zone Job Creation Grant, without the four net new permanent full-time position threshold. Encourages location of new industries and expansion of existing businesses by reducing start-up costs of hiring new employees.	Locality/Provider: Danville-Pittsylvania Regional Facility Autho
	Qualification Requirements: Must create a minimum of 25 new jobs. Job grants are limited to 500 jobs and maximum of \$125,000 per business annually.
	Exclusive to Zone: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, please explain how incentives will be tailored to Zone
	Period of Availability: Life of Zone
Financial Value of Incentive: Maximum of 500 jobs at \$250 = \$125,000	Effective Date: Upon Zone Designation
Action to Implement: <input type="checkbox"/> Local Ordinance <input checked="" type="checkbox"/> Approval by Board of Supervisors <input type="checkbox"/> Other,	Source of Funds: Local General Funds
	Annual Budget Allocation, pending approval: \$125,000
Incentive #: 4 Name: Development Permit Fee Waiver Description: Waiver of 100% of the cost of Building, Zoning and Land Disturbing permit fees for eligible new construction and expansions in the zone. Encourages job creation from new construction and expansions by reducing start-up costs.	Locality/Provider: Pittsylvania County
	Qualification Requirements: New Constr. -Must create at least 25 new jobs Expansions - Must create at least 15 new jobs
	Exclusive to Zone: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, please explain how incentives will be tailored to Zone
	Period of Availability: Life of Zone
Financial Value of Incentive: Maximum Permit Fee - \$10,000	Effective Date: Upon Zone Designation
Action to Implement: <input type="checkbox"/> Local Ordinance <input checked="" type="checkbox"/> Approval by Board <input type="checkbox"/> Other,	Source of Funds: Foregone Revenue
	Annual Budget Allocation, pending approval: N/A

Part 2 - Local Incentive Narrative (Complete one for each of the proposed incentives)

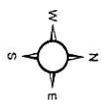
Proposed Enterprise Zone Name:	
Incentive #: 5 Name: Water and Sewer Fee Reimb Description: Reimbursement of the water and sewer connection fee charged by the Pittsylvania County Service Authority for new construction in the zone. Encourages new construction and expansions to create new jobs by reducing construction and start-up costs.	Locality/Provider: Danville-Pittsylvania County Regional Authori
	Qualification Requirements: New construction of at least 50,000 sq. ft. and creation of at least 25 new grant eligible, full-time permanent jobs.
	Exclusive to Zone: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, please explain how incentives will be tailored to Zone
	Period of Availability: Life of Zone
Financial Value of Incentive: Typical large connection fee - \$10,000	Effective Date: Upon Zone Designation
Action to Implement: <input type="checkbox"/> Local Ordinance <input checked="" type="checkbox"/> Approval by Board of Supervisors <input type="checkbox"/> Other,	Source of Funds: Local General Funds
	Annual Budget Allocation, pending approval: \$20,000
Incentive #: 6 Name: Fast Track Permitting Description: A Permit Coordinator will be assigned to all qualifying businesses locating in the zone to expedite the entire local permitting process. Encourages new development and job creation by reducing time for planning and development	Locality/Provider: Pittsylvania County
	Qualification Requirements: New constr. -Must create at least 25 new jobs Expansions - Must create at least 15 new jobs
	Exclusive to Zone: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, please explain how incentives will be tailored to Zone
	Period of Availability: Life of Zone
Financial Value of Incentive: Value to business varies based on time saved	Effective Date: Upon Zone Designation
Action to Implement: <input type="checkbox"/> Local Ordinance <input checked="" type="checkbox"/> Approval by Board <input type="checkbox"/> Other,	Source of Funds: None
	Annual Budget Allocation, pending approval: N/A

Part 2 - Local Incentive Narrative (Complete one for each of the proposed incentives)

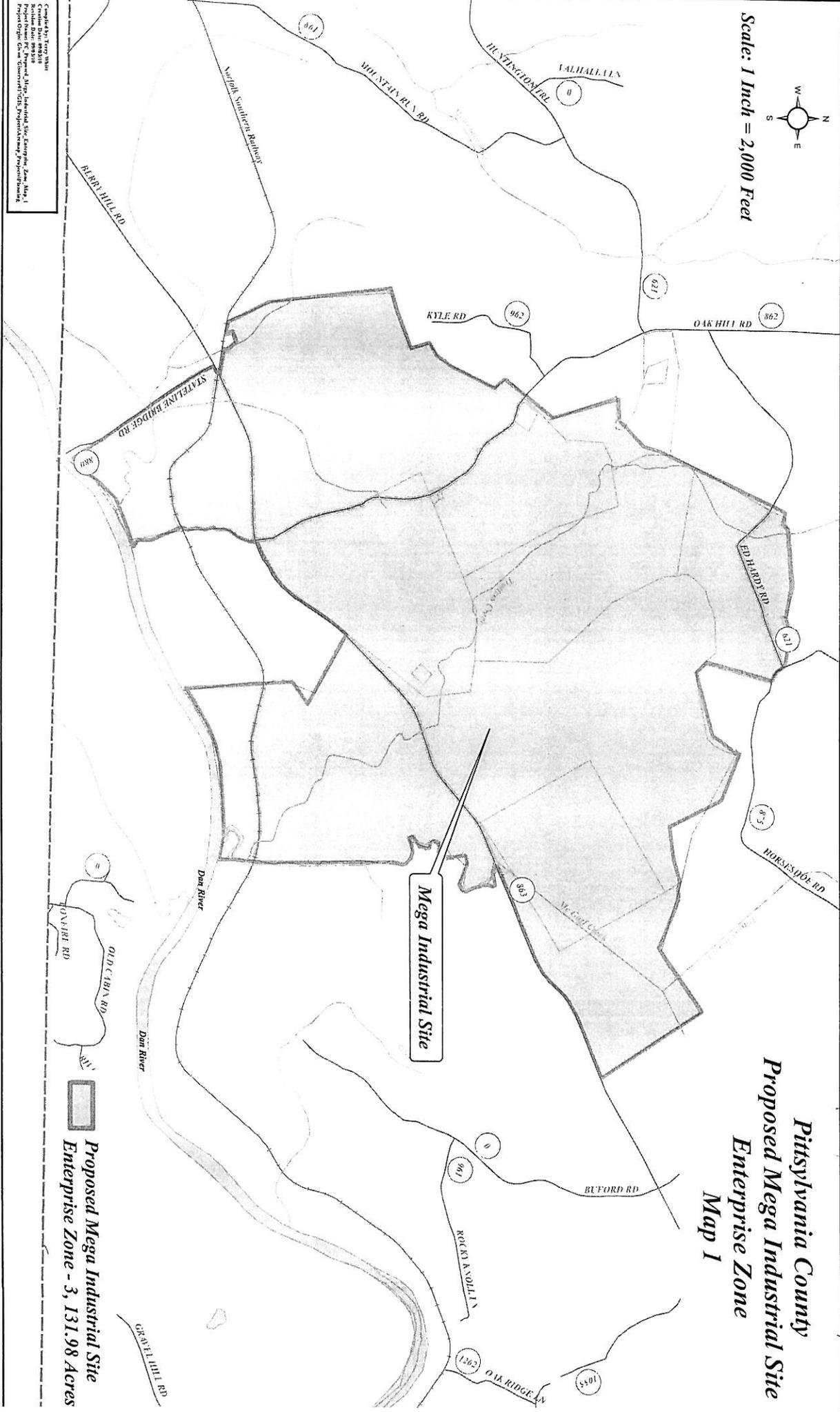
Proposed Enterprise Zone Name:

<p>Incentive #: 7 Name: Discount of Sites Description: Industrial sites in the Mega Industrial Site enterprise zone located in Pittsylvania Co., that are owned or controlled by the County or the Regional Authority, will be sold at below market rate prices to targeted business Encourages new businesses to locate in the zone due to reduced development costs.</p>	<p>Locality/Provider: Danville-Pittsylvania Regional Authority</p> <p>Qualification Requirements: Eligibility will be determined based on private capital investment and job creation expectations documented in Performance Agreem</p> <p>Exclusive to Zone: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, please explain how incentives will be tailored to Zone</p> <p>Period of Availability: Life of Zone</p>
<p>Financial Value of Incentive: Value of 100 acre site: \$1 to \$2.5 million</p>	<p>Effective Date: Upon Zone Designation</p>
<p>Action to Implement: <input type="checkbox"/> Local Ordinance <input checked="" type="checkbox"/> Approval by Board of Supervisors <input type="checkbox"/> Other,</p>	<p>Source of Funds: Foregone Revenue</p> <p>Annual Budget Allocation, pending approval: N/A</p>
<p>Incentive #: 8 Name: Infrastructure Improvements Description: The proposed Mega Industrial Site Enterprise Zone location is eligible for Major Employment and Investment (MEI) grants from VEDP and the Tobacco Commission to be used for infrastructure and site improvements. These grants, along with EZ incentives will leverage private investments. Infrastructure and improvements reduce major initial costs to new industries.</p>	<p>Locality/Provider: VEDP and VA Tobacco Comm.</p> <p>Qualification Requirements: MEI grants are limited to sites capable of producing private investments of \$250 million and the creation of at least 400 jobs.</p> <p>Exclusive to Zone: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, please explain how incentives will be tailored to Zone.</p> <p>Period of Availability: Life of Zone</p>
<p>Financial Value of Incentive: Initial VEDP - \$5 mill. Tob. Co. - \$100 mill.</p>	<p>Effective Date: Upon Zone Designation</p>
<p>Action to Implement: <input type="checkbox"/> Local Ordinance <input checked="" type="checkbox"/> Approval by Board <input type="checkbox"/> Other,</p>	<p>Source of Funds: VEDP, Tobacco Comm. - Local matching funds</p> <p>Annual Budget Allocation, pending approval: \$500,000 for local match</p>

Scale: 1 Inch = 2,000 Feet



**Pittsylvania County
Proposed Mega Industrial Site
Enterprise Zone
Map 1**



Mega Industrial Site



Proposed Mega Industrial Site
Enterprise Zone - 3, 131.98 Acres

Compiled by Terry White
Cartographer
Project Manager: PC, Proposed, Major, Industrial Site, Enterprise, Zone, Map, 1
Project Designer: Chris, University of VA, Charlottesville, Virginia, Department of Planning

AGENDA
ITEM NUMBER 9

**Danville - Pittsylvania Regional Industrial Facility
Authority**

Financial Status

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- A. \$7.3 Million Bonds
 - B. General Expenditures for FY 2010
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 - F. Yorktowne Reimbursement
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Danville-Pittsylvania Regional Industrial Facility Authority

\$7.3 million Bonds for Cane Creek Centre - Issued in August 2005

As of August 31, 2010

<i>Funding</i>	<u>Funding</u>	<u>Budget / Contract Amount</u>	<u>Expenditures</u>	<u>Encumbered</u>	<u>Unexpended / Unencumbered</u>
Funds from bond issuance	\$ 7,300,000.00				
Issuance cost	(155,401.33)				
Bank fees	(98.25)				
Interest earned to date	484,433.74				
Cane Creek Parkway		\$ 3,423,296.09	\$ 3,342,961.25	\$ 80,334.84	
Swedwood Drive ²		69,414.00	69,414.00	-	
Cane Creek Centre entrance ³		72,335.00	53,878.70	-	
Financial Advisory Services		7,600.00	7,600.00	-	
Dewberry contracts ¹		69,582.50	69,582.50	-	
Dewberry contracts not paid by 1.7 grant⁴		142,740.61	3,945.00	138,795.61	
Land			2,560,921.67	-	
Demolition services			33,761.62	-	
Legal fees			46,303.23	-	
Other expenditures			9,689.70	-	
Total	\$ 7,628,934.16		\$ 6,198,057.67	\$ 219,130.45	\$ <u>1,211,746.04</u>

notes:

¹ Dewberry Contracts consist of wetland, engineering, surveying and site preparation

² Funds being used to cover City and County matching contributions for a VDOT grant for Swedwood Drive

³ Project completed under budget

⁴ In September 2008 the outstanding principal balance of \$6,965,000 on the Series 2005 Cane Creek Project Revenue Bonds was tendered and not remarketed. These bonds were converted to bank bonds and are now subject to the Credit and Reimbursement agreement the Authority has with Wachovia Bank. The remarketing agent will continue its attempt to remarket these bonds in order to convert them back to Variable Rate Revenue Bonds. As a result, it is likely that the City and County will have to contribute additional funds in order to make future interest payments on the letter of credit attached to these bonds.

⁴ These contracts were originally to be paid by the \$1.7M Special Projects Grant, this grant has expired and the TIC did not issue an extension. The remaining amounts of the contract will be paid using bond funds.

Road Summary-Cane Creek Parkway:	
English Contract-Construction	\$ 5,363,927.00
Change Orders	165,484.50
Expenditures over contract amount	3,579.50
(Less) County's Portion of Contract	(935,207.00)
(Less) Mobilization Allocated to County	(9,718.00)
Portion of English Contract Allocated to RIFA	4,588,066.00
Dewberry Contract-Engineering	683,850.00
Total Road Contract Allocated to RIFA	\$ 5,271,916.00

Funding Summary - Cane Creek Parkway	
VDOT	\$ 1,848,619.91
Bonds	3,423,296.09
	\$ 5,271,916.00

Danville-Pittsylvania Regional Industrial Facility Authority

General Expenditures for Fiscal Year 2010

As of August 31, 2010

	<u>Funding</u>	<u>Budget</u>	<u>Expenditures</u>	<u>Encumbered</u>	<u>Unexpended / Unencumbered</u>
<i>Funding</i>					
City	\$ 75,000.00	\$	\$	\$	\$
County	75,000.00				
Carry forward from FY09	20,001.89				
<i>Contingency</i>					
Bank Fees			4,046.25	-	
Berry Hill Project			13,233.29	-	
Angler's Park Wetland Mitigation			1,360.00		
Total Contingency Budget		50,000.00	18,639.54	-	31,360.46
<i>Legal</i>		75,401.89	37,180.89	-	38,221.00
<i>Accounting</i>		20,000.00	18,500.00	-	1,500.00
<i>Postage & Shipping</i>		100.00	24.76	-	75.24
<i>Meals</i>		2,500.00	2,011.96	-	488.04
<i>Utilities</i>		15,000.00	7,796.08	-	7,203.92
<i>Insurance</i>		7,000.00	6,315.00	-	685.00
Total	\$ 170,001.89	\$ 170,001.89	\$ 90,468.23	\$ -	\$ 79,533.66

Danville-Pittsylvania Regional Industrial Facility Authority

General Expenditures for Fiscal Year 2011

As of August 31, 2010

	<u>Funding</u>	<u>Budget</u>	<u>Expenditures</u>	<u>Encumbered</u>	<u>Unexpended / Unencumbered</u>
Funding					
City	\$ 20,000.00	\$	\$		\$
County	20,000.00				
Carry forward from FY10	79,533.66				
Contingency					
Bank Fees				-	
Berry Hill Project				-	
Angler's Park Wetland Miligation					
Total Contingency Budget		27,400.00	-	-	27,400.00
Legal		40,000.00	-	-	40,000.00
Accounting		18,000.00	4,000.00	-	14,000.00
Postage & Shipping		100.00	-	-	100.00
Meals		2,500.00	199.27	-	2,300.73
Utilities		10,000.00	588.93	-	9,411.07
Insurance		7,000.00	-	-	7,000.00
Total	\$ 119,533.66	\$ 105,000.00	\$ 4,788.20	\$ -	\$ 114,745.46

Danville-Pittsylvania Regional Industrial Facility Authority

Mega Park

As of August 31, 2010

	<u>Funding</u>	<u>Budget / Contract</u> <u>Amount</u>	<u>Expenditures</u>	<u>Encumbered</u>	<u>Unexpended /</u> <u>Unencumbered</u>
Funding					
City contribution	\$ 134,482.50				
County contribution	134,482.50				
City advance for Klutz, Canter, & Shoffner property ¹	10,340,983.83				
Tobacco Commission FY09 SSED Allocation	3,370,726.00				
Tobacco Commission FY10 SSED Allocation - Engineering Portion	407,725.00				
Land					
Klutz property		\$ 8,394,553.50	\$ 8,394,553.50	\$ -	
Canter property ²		1,200,000.00	1,200,000.00	-	
Adams property		37,308.00	37,308.00	-	
Carter property		5,843.00	5,843.00	-	
Jane Hairston property		1,384,961.08	1,384,961.08	-	
Bill Hairston property		201,148.00	201,148.00	-	
Shoffner Property		1,872,896.25	1,872,896.25	-	
Other					
Dewberry & Davis		28,965.00	28,965.00	-	
Dewberry & Davis ³		990,850.00	859,940.29	130,909.71	
Consulting Services - McCallum Sweeney		115,000.00	80,343.52	34,656.48	
Total	\$ 14,388,399.83	\$ 14,231,524.83	\$ 14,065,958.64	\$ 165,566.19	\$ 156,875.00

¹ This figure does not include the interest the City is losing from the unvested funds.

² settlement fees have been charged to general expenditures until a funding source is available

³ This contract was originally for \$814,500, but has been amended to include a traffic impact analysis, and a cemetery survey. \$740,000 will be covered by the FY09 Tobacco Allocation and \$250,850 will be covered by the FY10 Tobacco Allocation.

Danville Pittsylvania Regional Industrial Facility Authority
 Danville Regional Foundation - Build Out of the Research Facility

Project Complete

	<u>Funding</u>	<u>Budget / Contract</u> <u>Amount</u>	<u>Expenditures</u>	<u>Encumbered</u>	<u>Unexpended /</u> <u>Unencumbered</u>
Danville Reg. Foundation	1,745,000.00				
Money Market - Interest Earned	22,687.21				
McKinney & Company		144,800.79	144,800.79	-	
Blair Construction, Inc.		1,450,261.00	1,450,261.00	-	
CRB Electric, Inc		23,153.00	-	-	
Custom Construction		13,911.00	13,806.67	-	
Powers Signs, Inc.		5,871.35	5,871.35	-	
Millwork Specialist, LLC - Case work for interior		78,935.04	78,935.04	-	
Commonwealth Blinds & Shades		3,074.20	3,074.20	-	
Sigma Engineered Solutions PC		11,800.00	11,800.00	-	
CCI**		59,101.00	59,101.00	-	
Total	<u>1,767,687.21</u>	<u>1,790,907.38</u>	<u>1,767,650.05</u>	<u>-</u>	<u><u>37.16</u></u>

** Contract is for \$82,588, the Institute will provide the remaining funds of \$23,487 to complete the project

